



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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*Lught-Reill Shirveishyn Argidoil Ellan Vannin*

**Consultation Paper**  
**Assessor of Income Tax Gateway**  
**Consultation on draft Orders to amend the**  
**exceptions from restrictions on disclosure of**  
**information under various Acts**

**CP21-07**

**Issue Date: 15 October 2021**  
**Closing Date: 26 November 2021**

## Consultation Paper – CP21-07

This Consultation Paper is issued by the Isle of Man Financial Services Authority, which is the regulatory body for financial services in the Isle of Man.

The purpose of the consultation is to obtain views and evidence in relation to three draft Orders which would amend the exceptions from restrictions on disclosure of information under the Designated Businesses (Registration and Oversight) Act 2015, the Financial Services Act 2008 and the Insurance Act 2008. The proposed changes to the Insurance Act 2008 will also apply to the Retirement Benefits Schemes Act 2000 by virtue of section 43 of the latter Act.

The closing date for comments is **26 November 2021**.

Please send comments in writing and preferably by email to:

**Mrs Gaynor Crowe**

**Isle of Man Financial Services Authority**

PO Box 58, Finch Hill House, Bucks Road, Douglas Isle of Man, IM99 1DT

**Email:** [Gaynor.Crowe@iomfsa.im](mailto:Gaynor.Crowe@iomfsa.im)

**Telephone:** +44 (0) 1624 689316

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The information you send may be published in full or in a summary of responses. All information in responses, including personal data, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018). If you want your response to remain confidential, you should explain why confidentiality is necessary. Your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding. The Authority is registered with the Information Commissioner as a data controller under Isle of Man data protection legislation. It collects and processes personal data to carry out its functions under relevant legislation and may share personal data with other parties where there is a legal basis for doing so. Further information on how the Authority collects and processes personal data can be found in the Privacy Policy on the Authority's website: <https://www.iomfsa.im/terms-conditions/privacy-policy/>.

If you have a query in relation to how this consultation has been carried out, please contact the Authority's Policy and Authorisations Division by email at [Policy@iomfsa.im](mailto:Policy@iomfsa.im) or by telephone on +44 (0) 1624 646000.

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## Glossary

<b>Assessor</b>	Assessor of Income Tax
<b>Authority</b>	Isle of Man Financial Services Authority
<b>CRS</b>	Common Reporting Standards
<b>DBROA15</b>	Designated Businesses (Registration and Oversight) Act 2015
<b>FATCA</b>	Foreign Account Tax Compliance Act (of the USA)
<b>FSA08</b>	Financial Services Act 2008
<b>IA08</b>	Insurance Act 2008
<b>RBSA00</b>	Retirement Benefits Schemes Act 2000

# 1. Executive Summary

## 1.1 Overview

In this Consultation Paper, the Authority proposes some amendments to the exceptions from restrictions on disclosure of information to the Assessor of Income Tax under the DBROA15, the FSA08 and the IA08.

The amendments under the IA08 will also apply to the RBSA00 by virtue of section 43 of the latter Act.

## 1.2 What is the purpose of this Consultation Paper?

This Consultation Paper invites affected parties to consider the following draft Orders:

Appendix	Draft Order
Appendix B	Designated Businesses (Disclosure of Information) Order 2022
Appendix C	Financial Services (Disclosure of Information) Order 2022
Appendix D	Insurance (Disclosure of Information) Order 2022

The Order under the IA08 will, if enacted, also apply to the RBSA00 by virtue of section 43 of that Act.

The Authority welcomes views in relation to the proposed amendments. Comments should be submitted to the Authority prior to the consultation's closing date.

## 1.3 Who may be affected by this Consultation Paper?

This paper may be of interest to persons and entities regulated by the Authority under the FSA08, the IA08 and the RBSA00, as well as persons and entities subject to oversight by the Authority under the DBROA15.

# 2. Consultation Process

## 2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the FSA08 as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

The Authority is required to give consideration to certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this consultation are considered as follows:

Factor	Information
The desirability of implementing and applying recognised international standards.	The proposed new gateway, which will allow information to be disclosed to the Assessor in connection with all of the Assessor's functions (not just functions in relation to income tax), is imperative for the purposes of ensuring that the Island's legislative framework is compliant with international standards in relation to CRS/FATCA and economic substance.
The need to safeguard the reputation of the Island.	The proposed new gateway will allow information to be disclosed to the Assessor of Income Tax in appropriate circumstances and also ultimately help to safeguard the reputation of the Island.

## 2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority's proposals. Constructive feedback will help the Authority reach an informed decision on the content of the proposals and manner of implementation. Respondents should note the following when responding to this Consultation Paper:

- As responses to the consultation may be subject to publication or disclosure in accordance with access to information regimes, respondents should state if they wish their response to remain confidential and, if so, the reasons for this.
- Submissions received by the closing date of the consultation will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a consultation as well as the methodology used to gain members' input.
- The Authority requests that submissions are not made anonymously as they will not be considered or included in the Consultation Response.

This Consultation Paper has been published on the Authority's website and the Isle of Man Government's Consultation Hub<sup>1</sup>. A list of specific representative groups to which this Consultation Paper has been sent is shown in Appendix A.

## 3. Proposals

### 3.1 Background

Provisions in the DBROA15, the FSA08, the IA08 and the RBSA00 restrict the disclosure of certain non-public information<sup>2</sup> obtained under those Acts<sup>3</sup>.

<sup>1</sup> <https://consult.gov.im/>

<sup>2</sup> Referred to in those Acts as "restricted information".

<sup>3</sup> See section 22 DBROA15, section 31 and paragraph 1 Schedule 5 FSA08, section 46 and paragraph 1 Schedule 6 IA08 and section 43 RBSA00.

The relevant Acts also contain a number of statutory exceptions which effectively permit the disclosure of information which would otherwise be restricted under those Acts<sup>4</sup>.

In addition, the relevant Acts contain an enabling power, which allows the Treasury to make Orders which provide for further exceptions from the restrictions on disclosure of information<sup>5</sup>.

The “exceptions from restrictions on disclosure of information” are colloquially referred to as “gateways”, and the two phrases have been used interchangeably in this Consultation Paper.

### 3.2 Summary of proposals

The DBROA15, FSA08 and IA08 already contain an information gateway to the Assessor for the purpose of enabling or assisting the Assessor to discharge functions under enactments relating to income tax.

However, the Assessor’s functions are not limited to income tax matters, and therefore it is proposed that an additional information gateway to the Assessor which is wider in scope will be introduced under the DBROA15, FSA08 and IA08 via Orders made under each of those Acts, as summarised in the table below.

Designated Businesses (Registration and Oversight) Act 2015	
<i>Enabling Provision</i>	<i>Summary of Proposed Amendment</i>
Paragraph 2 of Schedule 2 DBROA15	Proposal to establish an additional information gateway with the Assessor under the DBROA15 to ensure that information received under that Act may be disclosed to the Assessor in respect of that person’s <b>functions under any enactment</b> in appropriate circumstances (emphasis added).
Financial Services Act 2008	
<i>Enabling Provision</i>	<i>Summary of Proposed Amendment</i>
Paragraph 2(2) of Schedule 5 FSA08	Proposal to establish an additional information gateway with the Assessor under the FSA08 to ensure that information received under that Act may be disclosed to the Assessor in respect of that person’s functions under any enactment in appropriate circumstances (emphasis added).

<sup>4</sup> See paragraphs 1(1) to (2), 3 and 4 Schedule 2 DBROA15, paragraph 2(1), (1A), (4) and (5) to (9) Schedule 5 FSA08, paragraph 2(1), (2) to (3) and (6) Schedule 6 IA08 and section 43 RBSA00.

<sup>5</sup> Paragraph 2 Schedule 2 DBROA15, paragraph 2(2) to (3) Schedule 5 FSA08, paragraph 2(4) to (5) Schedule 6 IA08 and section 43 RBSA00.

Insurance Act 2008 / Retirement Benefits Schemes Act 2000	
<i>Enabling Provision</i>	<i>Summary of Proposed Amendment</i>
Paragraph 2(4) of Schedule 6 IA08	Proposal to establish an additional information gateway with the Assessor under the IA08 to ensure that information received under that Act and the RBSA00 may be disclosed to the Assessor in respect of that person's <b><i>functions under any enactment</i></b> in appropriate circumstances (emphasis added).

### 3.3 Draft Orders

The proposed amendments under Schedule 2 to the **DBROA15**, and the statutory powers that they will be made under, are set out in the form of a draft Order in **Appendix B**.

The proposed amendments under Schedule 5 to the **FSA08**, and the statutory powers that they will be made under, are set out in the form of a draft Order in **Appendix C**.

The proposed amendments under Schedule 6 to the **IA08**, and the statutory powers that they will be made under, are set out in the form of a draft Order in **Appendix D**.

### 3.4 Rationale

It has been proposed that the information gateways under the DBROA15, the FSA08 and IA08 are amended to broaden the existing gateway to the Assessor in recognition of the expansion of the powers and duties of the Assessor. These are of particular relevance to the Authority's regulated entities, and the proposed changes to the information gateways should also help ensure that the Island's legislative framework continues to meet international standards.

Financial services regulators in the UK, Jersey, Guernsey and Ireland all have the discretionary power to disclose information to the domestic tax authorities of their jurisdiction for any of those tax authorities' purposes.

## 4. Impact Assessment

The Authority is aware of the cost of regulation and seeks to meet its statutory objectives with minimum negative impact. The Authority considers that the changes proposed in this paper would not have an impact on the cost of regulation.

## 5. Questions

### Question 1

Do you have any comments on the proposed changes to the exceptions from the restrictions on disclosure of information? If so, please can you tell us the reasons for these views?

## **6. Next Steps**

Following closure of the consultation period, the Authority will review the responses received and publish a Consultation Response document on the Authority's website and the Isle of Man Government's Consultation Hub.

Subject to views expressed in response to the consultation, it is intended that the proposed changes will come into effect in 1 March 2022.



## **Appendix A – List of Groups to which this Consultation Paper has been sent**

- Income Tax Division, Isle of Man Treasury.

## Appendix B – Draft Designated Businesses (Disclosure of Information) Order 2022

Statutory Document No. 2022/XXXX

# C

*Designated Businesses (Registration and Oversight) Act 2015*

## DESIGNATED BUSINESSES (DISCLOSURE OF INFORMATION) ORDER 2022

*Approved by Tynwald:* [day] [month] 2022  
*Coming into Operation:* [day] [month] 2022

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The Treasury makes the following Order under section 35(3) of, and paragraph 2 of Schedule 2 to, the Designated Businesses (Registration and Oversight) Act 2015.

### 1 Title

This Order is the Designated Businesses (Disclosure of Information) Order 2022.

### 2 Commencement

If approved by Tynwald, this Order comes into operation on [date].

### 3 Designation of authorities

For the purposes of paragraph 2 of Schedule 2 to the Designated Businesses (Registration and Oversight) Act 2015, the Assessor of Income Tax is designated as an authority in respect of such person's functions under any enactment.

**MADE [DATE]**

*Minister for the Treasury*

**EXPLANATORY NOTE**

***(This note is not part of the Order)***

This Order designates the Assessor of Income Tax as an authority for the purposes of paragraph 2 of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015*. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Designated Businesses (Registration and Oversight) Act 2015* to the Assessor of Income Tax for the purpose of enabling or assisting the Assessor of Income Tax in relation to any of that person's functions.

## Appendix C – Draft Financial Services (Disclosure of Information) Order 2022

Statutory Document No. 2022/XXXX

# C

*Financial Services Act 2008*

### FINANCIAL SERVICES (DISCLOSURE OF INFORMATION) ORDER 2022

*Approved by Tynwald:* [day] [month] 2022

*Coming into Operation:* [day] [month] 2022

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The Treasury makes the following Order under section 45(3) of, and paragraph 2(2) of Schedule 5 to, the Financial Services Act 2008, after carrying out the consultations required by section 44(7) of that Act.

#### **1 Title**

This Order is the Financial Services (Disclosure of Information) Order 2022.

#### **2 Commencement**

If approved by Tynwald, this Order comes into operation on [date].

#### **3 Designation of authorities**

For the purposes of paragraph 2(2) of Schedule 5 to the Financial Services Act 2008, the Assessor of Income Tax is designated as an authority in respect of such person's functions under any enactment.

**MADE [DATE]**

*Minister for the Treasury*

**EXPLANATORY NOTE**

***(This note is not part of the Order)***

This Order designates the Assessor of Income Tax as an authority for the purposes of paragraph 2(2) of Schedule 5 to the Financial Services Act 2008. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the *Financial Services Act 2008* to the Assessor of Income Tax for the purpose of enabling or assisting the Assessor of Income Tax in relation to any of that person's functions.

## Appendix D – Draft Insurance (Disclosure of Information) Order 2022

Statutory Document No. 2022/XXXX

# C

*Insurance Act 2008*

## INSURANCE (DISCLOSURE OF INFORMATION) ORDER 2022

*Laid before Tynwald:* [day] [month] 2022

*Coming into Operation:* [day] [month] 2022

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The Treasury makes the following Order under paragraph 2(4) of Schedule 6 to the Insurance Act 2008.

### **1 Title**

This Order is the Insurance (Disclosure of Information) Order 2022.

### **2 Commencement**

This Order comes into operation on [date].

### **3 Designation of authorities**

For the purposes of paragraph 2(4) of Schedule 6 to the Insurance Act 2008, the Assessor of Income Tax is designated as an authority in respect of such person's functions under any enactment.

**MADE [DATE]**

*Minister for the Treasury*

**EXPLANATORY NOTE**

***(This note is not part of the Order)***

This Order designates the Assessor of Income Tax as an authority for the purposes of paragraph 2(4) of Schedule 6 to the Insurance Act 2008. The effect of this designation is to permit the disclosure of information which may otherwise be restricted under the Insurance Act 2008 or the Retirement Benefits Schemes Act 2000 to the Assessor of Income Tax for the purpose of enabling or assisting the Assessor of Income Tax in relation to any of that person's functions.